

300 KAR 2:020. Tourism Development Loan Program; criteria for making and collecting loans.

RELATES TO: KRS 148.850, 148.851, 148.853, 148.855, 148.857, 148.859, 148.860

STATUTORY AUTHORITY: KRS 148.850(4)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 148.850(4) requires the Secretary of Tourism to establish criteria for the disbursement and collection of funds appropriated to the Tourism Development Loan Program. This administrative regulation establishes those criteria.

Section 1. Definitions. As used in this administrative regulation, the following terms have the following meanings:

- (1) "Authority" means the Tourism Development Finance Authority.
- (2) "Cash match basis" means the amount of investment by the borrower from equity or other loan sources, which is equal to or greater than the amount borrowed through the program.
- (3) "Fixed costs" are costs incurred in acquiring, constructing, reconstructing, rehabilitating, renovating, enlarging, improving, equipping, maintaining, or furnishing the tourism project, including site clearance and preparation.
- (4) "Fund" means the loan fund authorized for the Tourism Development Loan Program by KRS 148.850(4).

Section 2. Criteria. The following criteria shall be utilized by the authority in evaluating and making loans under the Tourism Development Loan Program:

- (1) Fixed asset lending shall be made to qualified businesses, on a cash match basis;
- (2) A first, co-first, or second secured position on fixed asset collateral in favor of the authority is required of all loans;
- (3) Prior to final approval of any loan to be provided, and as a condition precedent thereto, the authority shall determine that the benefits to be derived by the Commonwealth and the local economic area from the establishment and operation of the eligible project shall exceed the cost of providing such assistance; and
- (4) The project proposed to be financed shall be economically feasible, as determined by the authority.

Section 3. Considerations. The authority shall consider and take into consideration, inter alia, the following:

- (1) Payrolls, and the taxes generated, at both state and local levels, by the eligible project and taxes generated by the employment and economic activity created or preserved by the eligible project;
- (2) The size, nature, and cost of the eligible project, including the prospect of the eligible project for attracting and retaining visitors to the Commonwealth;
- (3) The needs (and degree of needs) of the area in which the eligible project is to be located;
- (4) The financial needs of the applicant;
- (5) The amount of any kind of assistance, if any, to be provided to any applicant by other government agencies through tax exemption or abatement, financing assistance with industrial development bonds, and otherwise, with respect to the eligible project;
- (6) The amount of capital made available to the eligible project by other lenders and by the owners of the eligible project; and
- (7) The number of projected new visitors, in the context of the size of the loan being made, attributable to the tourism project.

Section 4. Eligibility Standards. The authority, subject to the other applicable provisions of this administrative regulation, shall make loans only from monies in the fund. Program loans shall be made if the authority determines that:

- (1) The project is an eligible project and is economically sound;
- (2) The amount to be loaned from the fund shall not exceed fifty (50) percent of the total fixed costs of the eligible project;
- (3) The amount of the loan from the fund to be repaid shall be adequately secured by a mortgage, lien, assignment, or pledge, at such level of priority as the authority may require;
- (4) The determinations of the authority shall be conclusive for purposes of the validity of a loan commitment evidenced by an agreement of the authority;
- (5) Rates of interest, times of payment of interest and principal, and other terms, conditions and provisions of, and security for, program loans made from the fund pursuant to this section shall be such as the authority determines to be appropriate and in furtherance of the purpose for which the loans are made. Repayments of loans shall conform to the requirements of the loan contract; and
- (6) The authority is authorized to take action established in the loan contract as may be necessary to collect on the loan. (27 Ky.R. 1663; Am. 2126; eff. 2-15-2001.)